

E-FILING

United States District Court

FILED

NORTHERN

DISTRICT OF

2007 DEC 19 P 3:08
CALIFORNIA

UNITED STATES OF AMERICA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

V.

CRIMINAL COMPLAINT

Fidel BUSTOS-Lopez

07-70755 PVT
CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, 8/2/2007, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
 I further state that I am a(n) Deportation Officer and that this complaint is based on the following
 facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

December 19, 2007
Date

at San Jose, California
City and State

Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Judicial Officer

Patricia V. Trumbull

RE: Fidel BUSTOS-Lopez

A 74 208 813

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Fidel BUSTOS-Lopez (*AKA: Jose VALENCIA*) is a 29 year-old single male whose date of birth is currently understood to be November 27, 1977. He is a citizen and native of Michoacan, Mexico as substantiated by seven sworn statements made to that effect by the DEFENDANT between the dates of January 12, 1999 and August 2, 2007, including an interview that was initiated on August 2, 2007 at Santa Clara County Jail {Elmwood facility} by ICE Immigration Enforcement Agent (IEA) James Freer of the San Jose, California DRO Sub-Office;
- (2) The DEFENDANT has been assigned Alien Registration number of A 74 2089 813, FBI number of 765830AB3, and California Criminal State ID Number of 11336848;
- (3) On March 19, 1996, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following offense: OBSTRUCTING/RESISTING A PUBLIC OFFICER, a misdemeanor, in violation of California Penal Code Section 148, for which the DEFENDANT was sentenced to fifteen days in jail;
- (4) On October 15, 1996, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following felony offenses: POSSESSION NARC/CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11350(A) and USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11550(A), and sentenced to one hundred and eighty days in jail;
- (5) On June 22, 1998, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following felony offense: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11550(A), and sentenced to one hundred and eighty days in jail;
- (6) On May 21, 1999, the DEFENDANT was determined to be unlawfully present in the United States by the Eloy, AZ Immigration Judges order and ordered deported from the United States to Mexico;

RE: Fidel BUSTOS-Lopez

A 74 208 813

- (7) On September 22, 1999, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following misdemeanor offense: DRIVING UNDER THE INFLUENCE WITH ALCOHOL/DRUGS AND CAUSING BODILY INJURY, in violation of California Vehicle Code Section 23153 and sentenced to one hundred and eighty days in jail;
- (8) On August 15, 2001, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director in San Francisco, CA and ordered deported from the United States to Mexico;
- (9) On October 23, 2002, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following felony offenses: BATTERY, in violation of California Penal Code Section 242 *and* GRAND THEFT FROM A PERSON in violation of California Penal Code Section 487(C) and sentenced to eight months in jail;
- (10) On December 30, 2002, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director in San Francisco, CA and ordered deported from the United States to Mexico;
- (11) On August 20, 2003, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following felony offense: POSSESSION OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11377 (A) and sentenced to one year and four months in prison;
- (12) On June 1, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the ICE SAC in San Francisco, CA and ordered deported from the United States to Mexico;
- (13) On January 10, 2005, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following misdemeanor offenses: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11550(A) *and* POSSESSION OF A CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11377 (A) and sentenced to ninety days in jail;
- (14) On June 23, 2005, the DEFENDANT was determined to be unlawfully present in the United States by the DRO Field Office Director in San Francisco, CA and ordered deported from the United States to Mexico;

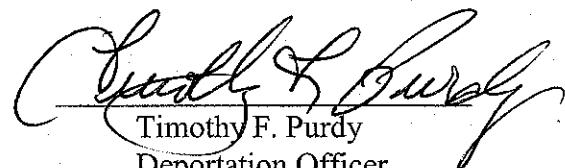
RE: Fidel BUSTOS-Lopez

A 74 208 813

- (15) On November 22, 2006, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following misdemeanor offense: DRIVING UNDER THE INFLUENCE WITH PRIORS, in violation of California Vehicle Code Section 123152(B) and sentenced to sixty days in jail;
- (16) On January 9, 2007, the DEFENDANT was determined to be unlawfully present in the United States by the DRO Field Office Director in San Francisco, CA and ordered deported from the United States to Mexico;
- (17) On July 25, 2007, the DEFENDANT was convicted in the Superior Court of California /County of Santa Clara for the following felony offenses: DUI W/IN 10 YEARS OF PREVIOUS DUI in violation of California Vehicle Code Section 23550(A) and DUI W/PRIORS in violation of California Vehicle Code Section 123152(B) and sentenced to two hundred and forty days in jail;
- (18) On, August 2, 2007, the Defendant was encountered by IEA James Freer, at Santa Clara County Jail, and determined to be unlawfully present in the United States after a prior deportation. IEA Freer read the DEFENDANT of his **Miranda** rights in the English language. The DEFENDANT waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Secretary of the Department of Homeland Security or the United States Attorney General to reenter the United States;
- (19) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (20) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.

RE: Fidel BUSTOS-Lopez

A 74 208 813



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 19 day of December, 2007



Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE